

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.19452 OF 2004**

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**ORDER:**

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This Writ Petition is filed seeking a declaration that the proceedings of the 1<sup>st</sup> respondent-Commissioner of Endowments, dated 4.10.2004, cancelling the lease granted in favour of the petitioners in respect of different extents of land situated in Sy.Nos.562/2 and 562/1 of Thimmasamudram village, Naguluppalapadu Mandal, Prakasam District, as arbitrary and illegal.

The petitioners, five in number, claim to be the tenants in respect of different extents of land situated in Sy.Nos.562/2 and 561/1 of Thimmasamudram village. Admittedly the said land belongs to Sri Gorantla Venkanna Trust, Thimmasamudram. It is claimed that the lease in their favour is valid up to 2006-07 by virtue of the proceedings dated 20.08.2004 whereunder the lease period was extended from 2004-05 to 2006-07. It is alleged that on 20.09.2004, the respondent-authorities came to the land and demanded the petitioners to vacate the land in question forthwith and hand over the possession stating that the leasehold rights of the land would be put to public auction on 28.09.2004. Aggrieved by the said action of the respondents, the petitioners filed W.P.No.17271 of 2004, contending that since the lease in their favour was subsisting, the respondents ought not to have put the leasehold rights to public auction. During the pendency of the said Writ Petition, the 1<sup>st</sup> respondent-Commissioner of Endowments, by proceedings dated 4.10.2004 cancelled the earlier order dated 20.8.2004 and directed the Executive Officer of the Gorantla Venkanna Trust, Thimmasamudra, to put the entire land to public auction for the maximum bid to be secured in the interest of the Trust. The said order dated 4.10.2004 is under challenge in this Writ Petition. The main contention raised by the petitioners is that the impugned order dated 4.10.2004, which was admittedly passed without notice to the petitioners and without assigning any reasons, is arbitrary, illegal and in violation of the principles of natural justice. It is contended that since by virtue of the earlier order dated 20.08.2004, the lease in question was extended up to 2006-2007, before cancelling the said order, the 1<sup>st</sup> respondent

ought to have afforded an opportunity of being heard to them.

One Gorantla Santhayya, Chairman of Sri Gorantla Venkanna Trust, Thimmasamudram, who got himself impleaded as respondent No.4 filed a counter-affidavit explaining that the then Executive Officer by name Hari Satyanarayana Murthy in collusion with the writ petitioners, submitted a report to the Commissioner of Endowments vide letter dated 13.7.2004 proposing extension of lease in favour of the writ petitioners. The said proposal was sent without the knowledge of the Trust Board. On the basis of the said proposal, the Commissioner of Endowments vide proceedings dated 20.08.2004 approved the extension of lease in favour of the writ petitioners. Subsequently, there was a change in the office of the Executive Officer and the new Executive Officer took charge on 16.09.2004. Immediately thereafter the Trust Board met on 20.09.2004 and a decision was taken not to grant lease in favour of the writ petitioners since they are not eligible. It was also resolved that the action of the then Executive Officer in recommending extension of lease in favour of the petitioners for the period from 2004-05 to 2006-07 without putting the same to public auction, was illegal. It is also alleged that the petitioners 4 and 5 are not the tenants at all and that none of the petitioners is in possession of the land in question as on today. It is also stated that having considered all the aforesaid facts, the Executive Officer addressed a letter dated 20.09.2004 requesting the Commissioner of Endowments to cancel the earlier order dated 20.08.2004. Accordingly, the Commissioner of Endowments by order dated 4.10.2004, cancelled the approval of the lease in favour of the petitioners.

I have heard the learned counsel for both the parties and perused the material on record.

The respondents does not dispute the fact that initially the petitioners 1 to 3 were granted lease, but their case is that by virtue of Section 82 (1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, the lease in favour of petitioners stood terminated. It is true that under Section 82 (2) of the Act, landless poor person holding lease for not less than six years continuously, shall have the right to purchase the lands for a consideration of seventy-five per-centum of the prevailing market value of similarly situated lands or to continue as tenant on payment of at least  $\frac{2}{3}$ <sup>rd</sup> of the market value for similarly placed lands as lease amount. However, such benefit is available only to landless poor person as defined

under the Explanation to Section 82(2) of the Act.

In the case on hand, it is not in dispute that the petitioners who earlier filed W.P.Nos.14656; 14647 and 14660 of 2003 initiated proceedings before the Assistant Commissioner of Endowments seeking a declaration that they are landless poor. However, their claim was rejected by the Assistant Commissioner of Endowments on 30.12.2003. Admittedly, the said order has become final. In the circumstances, by virtue of Section 82 (1) of the Act, read with Rule 3 of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003, the tenancy in their favour stood cancelled with effect from 28.05.1987 and they are not entitled to continue in possession any longer. As a matter of fact, the specific case of the 3<sup>rd</sup> respondent is that after the order of the Assistant Commissioner of Endowments dated 30.12.2003, the land in question has been resumed. Be that as it may, the fact remains that the then Executive Officer of the Trust proposed extension of lease in favour of the petitioners and having accepted the same, the 3<sup>rd</sup> respondent vide proceedings dated 20.08.2004 granted the extension of lease in favour of the petitioners for a period of three years from 2004-05 to 2006-07, of course subject to compliance with certain conditions. Subsequently, under the impugned proceedings dated 4.10.2004, the order dated 20.08.2004 was cancelled.

Whereas, the petitioners contend that having granted extension of lease, the 1<sup>st</sup> respondent ought not to have cancelled the same without notice to them, the case of the respondents is that the extension granted in favour of the petitioners was contrary to the provisions of the Act and the Rules and illegal. It is also contended that the petitioners failed to satisfy the conditions imposed under the order dated 20.08.2004, and therefore, the impugned order dated 4.10.2004 is unassailable and does not warrant any interference. It is also the plea of the respondents that since the petitioners failed to furnish the security as required in the order dated 20.08.2004, and since no lease deed was registered as required under the Statute, and particularly since the land in question has not been put in their possession, the impugned order of cancellation of lease cannot be held to be bad for want of prior notice.

It is to be noted that as per the A.P. Charitable and Hindu Religious Institutions (lease of Agricultural Lands) Rules, 2003, (for short "the Rules") made under

G.O.Ms.No.379, Revenue Endowment-I, dated 11.3.2003, all leases of the agricultural lands shall be only by public auction. It is true that the proviso to Rule 7 empowers the competent authority to permit the lease otherwise than by public auction, but the same can be done only if he satisfies for reasons to be recorded in writing that such procedure is necessary and in the interest of the Institution/Endowment.

It is true that the Commissioner of Endowments, being the competent authority, in appropriate cases may permit the lease otherwise than by public auction, however, the 1<sup>st</sup> respondent while granting extension of lease vide order dated 20.08.2004 failed to record any reasons expressing his satisfaction that such extension is necessary and in the interest of the Institution.

It is also relevant to note that under rule 17 of the Rules, in the case of all leases, the tenant should furnish security i.e., a sum equal to at least one year's rental or unencumbered immovable property equal in value to three year's rental to the satisfaction of the Executive Authority.

That apart, as per Rule 18, all lease deeds shall be in writing and shall be duly stamped and registered at the expense of the lessee. Sub-rule (2) of Rule 18 also makes it clear that no person shall be placed in possession of the leased land or allowed to exercise his rights under the lease until he has executed the lease deed and complied with the applicable requirements of the Rules.

In the case on hand, nothing has been placed before this Court to show that any such lease deed has been registered in favour of the petitioners. In the circumstances, I find force in the submission of the respondents that the petitioners have not been put in possession of the land in question in pursuance of the order of the 1<sup>st</sup> respondent dated 20.08.2004.

Moreover, Rule 19 of the Rules specifically provides that any lease granted, continued or allowed to be continued otherwise than in accordance with the Rules shall be null and void and the person or persons in possession of the land shall be deemed to be an encroacher within the meaning of Section 83 of the Act.

In the light of Rule 19 of the Rules and particularly having regard to the fact that the petitioners are not landless poor and the so called extension of the lease in their favour is found to be not in accordance with law, I do not find any substance in the

contention of the petitioners that the impugned order dated 4.10.2004 is arbitrary and illegal for want of prior notice to the petitioners.

For the aforesaid reasons, the Writ Petition is devoid of merits and the interference by this Court is not warranted. The Writ Petition is accordingly dismissed. No costs.

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**(G. ROHINI, J.)**

15<sup>th</sup> December, 2005.

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**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.19452 OF 2004**

15<sup>th</sup> December, 2005.

Between:

Tella Narayana and five others. .. Petitioners.

And

The Commissioner of Endowments,

Government of A.P., Tilak Road,  
Hyderabad and three others. .. Respondents.